

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL:B02
PLR-132734-10

Date:
February 04, 2011

TY:

Legend

Taxpayer =

Year X =

Country A =

Dear :

This is in response to a letter dated July 26, 2010, requesting that Taxpayer be granted an extension of time under Treas. Reg. section 301.9100-3 to elect the foreign earned income exclusion under section 911 of the Internal Revenue Code ("Code") for Year X.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Taxpayer lived and worked in Country A during Year X for a period of 345 full days. While in Country A, Taxpayer was informed by co-workers that his foreign earned income would not be included on his U.S. tax return and that he would have little tax liability. Taxpayer did not have the assistance of a qualified tax professional in Year X and was unaware that an election needed to be filed on Form 2555 to take advantage of the relevant income exclusion. Taxpayer failed to timely file any U.S. tax return for Year X.

Taxpayer requests that he be granted an extension of time under Treas. Reg. section 301.9100-3 to elect the provisions of section 911(a) for Year X.

Treas. Reg. section 301.9100-1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. section 301.9100-1 provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in section 301.9100-3, to make a regulatory election for relief in respect of tax under certain subtitles of the IRC, including section 911.

Treas. Reg. section 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in section 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

Treas. Reg. section 301.9100-3(b)(1)(iii) provides that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer failed to make the election because, after exercising reasonable diligence (taking into account the taxpayer's experience and the complexity of the return or issue), the taxpayer was unaware of the necessity for the election.

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies Treas. Reg. section 301.9100-3(a), and that granting relief will not prejudice the interests of the government. Accordingly, Taxpayer is granted an extension of time until 45 days from the date of this ruling letter to elect the foreign earned income exclusion for tax year Year X.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Jeffery G. Mitchell
Branch Chief
(International)